

13a

Herb Durfee

From: Stuart Richards <srichards@globalrescue.com>
Sent: Tuesday, October 10, 2017 11:34 AM
To: Herb Durfee
Cc: Miranda Bergmeier; Phil Dechert
Subject: Open Meeting Law Violation

Good morning Herb,

This email is official notification of an additional Open Meeting Law violation on the part of Phil Dechert. This morning, October 10, 2017, the minutes from the Affordable Housing Sub-Committee were posted from the meeting of Oct. 2, 2017. You are likely aware that Mr. Dechert in the past has violated the Open Meeting Law by publicly posting agendas and minutes days or even months late and it appears that this is another violation in addition to those which occurred in December, 2016 and prior. Please take corrective action so that these violations cease and so that Norwich can be in full compliance with all Vermont laws including the Open Meeting Law. Please make this email a part of Selectboard correspondence and Planning Commission and Affordable Housing Sub-Committee correspondence.

Thank you,

Stuart L. Richards

13a

Miranda Bergmeier

From: Stuart Richards <srichards@globalrescue.com>
Sent: Tuesday, October 17, 2017 12:25 PM
To: Herb Durfee
Cc: Miranda Bergmeier; Phil Dechert; John Pepper; johnlanghus@gmail.com; lcook2825@gmail.com; marydlayton@gmail.com; stephen.n.flanders@gmail.com; gvitt@vittandassociates.com; Robert Wolfe; Jeff Goodrich; Ralph Hybels; Ralph Hybels; Watt Alexander; Marcia Calloway; Ernie Ciccotelli; Kris Clement; Office; Calli Guion; Colin G. Calloway; Jim Gold; Claudette; Joshua Durst; Dan Goulet; Dean Seibert; jphillips729@earthlink.net; wsmith4203@gmail.com; Cheryl Sittle; Norman Levy; Rusty Sacks; Scott McGee; george@spaneaslaw.com; Jim Kenyon
Subject: Re: Open Meeting Law Violation
Attachments: Open Meeting Law Violations SLR 12-15-16.docx; Dechert Open Meeting Violation Response 1216.docx

Herb,

You haven't answered my phone call of yesterday and I hope that you do get around to answering my call. I had written you last week about Phil Dechert's fourth documented violation of the Open Meeting Law and received your unexpected response (below) indicating that you believe Mr. Dechert's latest violation was not "intentional" although Mr. Dechert admits to "knowingly" violating the law at least three times in December, 2016. It doesn't appear that you are willing to take any action to cure the current violation apart from talking to him because you don't consider it to be a violation. Please read the account of the three December, 2016 violations and the cure that Mr. Dechert enacted (attached).

Apparently you are not considering Mr. Dechert's long history of Open Meeting Law violations. You are also not considering Mr. Dechert's history of costing the town large sums of money in needless law suits.

How you are able to distinguish between Mr. Dechert's acknowledgement that he has violated the law and it's not being intentional is a mystery to me when you consider that Mr. Dechert has been in his job for 20+ years and acknowledges knowing the Open Meeting Law quite well. How many times does Mr. Dechert knowingly get to violate the Open Meeting Law before it becomes "intentional?" Kindly make this exchange of emails and the attachments a part of official correspondence for the Selectboard, the Planning Commission, the DRB and the Affordable Housing Sub-Committee.

The obvious and easy fix for Mr. Dechert's repeated violations is for him to acknowledge his violation as he did in December, 2016 and schedule corrective action. I don't understand why you are unwilling to do this and I would hope that you change your position before the 14 day cure period runs out so that no further action is necessary to ensure Mr. Dechert's compliance with the Open Meeting Law. You're certainly aware of the liability to the Town, to yourself and to those who hold office or are appointed and who are complicit in this Open Meeting Law violation.

Stuart

Stuart L. Richards, Senior Vice President
Global Rescue LLC

Ph: Direct 617-459-4199, Main 617-459-4200

Fax: 858-712-1295

<http://www.globalrescue.com>

From: Herb Durfee <HDurfee@norwich.vt.us>

Date: Thursday, October 12, 2017 at 4:46 PM

To: Stuart Richards <srichards@globalrescue.com>

Cc: Miranda Bergmeier <MBergmeier@norwich.vt.us>, Phil Dechert <PDechert@norwich.vt.us>, John Pepper <Pepper@norwich.vt.us>, John Lanhus <johnlanhus@gmail.com>, Linda Cook <lcook2825@gmail.com>, Mary Layton <marydlayton@gmail.com>, "stephen.n.flanders@gmail.com" <stephen.n.flanders@gmail.com>

Subject: RE: Open Meeting Law Violation

Stuart,

I've read and understand your e-mail. Phil well knows the Open Meeting Law and its requirements as it relates to draft minutes and their availability. The statute indicates a two-part test to ascertain violation of the law. Specifically, for a person to violate the law, they need to have "*knowingly **and intentionally***" violated the provisions of the law. (***Emphasis*** added.) In the recent situation to which you refer, Phil may have knowingly violated the law but it was not done intentionally, according to discussion with Phil. Thus, the two-part test is not met, meaning I don't think he violated the law.

Notwithstanding the above, I did speak to him about draft minutes and their availability.

Herb

Herbert A. Durfee, III

Town Manager

Town of Norwich

PO Box 376

Norwich, VT 05055

802-649-1419 ext. 102

802-649-0123 (fax)

From: Stuart Richards [<mailto:srichards@globalrescue.com>]

Sent: Tuesday, October 10, 2017 11:34 AM

To: Herb Durfee

Cc: Miranda Bergmeier; Phil Dechert

Subject: Open Meeting Law Violation

Good morning Herb,

This email is official notification of an additional Open Meeting Law violation on the part of Phil Dechert. This morning, October 10, 2017, the minutes from the Affordable Housing Sub-Committee were posted from the meeting of Oct. 2, 2017. You are likely aware that Mr. Dechert in the past has violated the Open Meeting Law by publicly posting agendas and minutes days or even months late and it appears that this is another violation in addition to those which occurred in December, 2016 and prior. Please take corrective action so that these violations cease and so that Norwich can be in full compliance with all Vermont laws including the Open Meeting Law. Please make this email a part of Selectboard correspondence and Planning Commission and Affordable Housing Sub-Committee correspondence.

Thank you,

13a

Town of Norwich, Vermont



CHARTERED 1761

Phil Dechert
Director of Planning

Stuart Richards
VIA EMAIL

December , 2016

Dear Mr. Richards,

This letter is to acknowledge unintentional violations by the Norwich Planning Commission and the Norwich Development Review Board of the Vermont “Open Meeting Law” noted in your December 15th, 2016 email. As Clerk for both the Planning Commission and the Development Review Board, I am responsible for compliance of the open meeting law for both public bodies.

The specific violations included in your complaint are:

- Failure to provide the public with agendas for the Planning Commission and Development Review Board at least 48 hours in advance of regular Planning Commission and Development Review Board Meetings 1 V.S.A. § 312 (d)(1)
- Failure to distribute minutes of Planning Commission meetings within five calendar days after the meeting. 1 V.S.A. § 312 (b)(2)

Specific examples of violations included in your complaint are:

- Posting of minutes of the Planning Commission meeting of November 10, 2016 and the Agenda for the meeting of December 8, 2016, both of which were posted the day of the meeting on December 8.
- Posting an Agenda for the Development Review Board for a meeting on 12/15/16 less than 48 hours in advance.

The Norwich Planning Commission will cure the violations by ratifying any “actions” taken at the December 8, 2016 Planning Commission meeting. This will occur at a Special Meeting to be timely scheduled and warned for a date prior to January 8th, 2017. The Commission will review and amend, as needed, any relevant procedures in the Commission Bylaws to comply with Vermont Statutes.

The Norwich Development Review Board will cure the violations by ratifying any “actions” taken at the December 15th, 2016 meeting at a regular warned meeting on January 5th. 2017. The Board will review and amend any relevant procedures, as needed, in the Board Rules of Procedure to comply with Vermont Statutes.

Phil Dechert, Clerk
Norwich Planning Commission
Norwich Development Review Board

cc: File

13a

From: Stuart Richards <srichards@globalrescue.com>
Date: Thursday, December 15, 2016 at 1:37 PM
To: <norwich@lists.vitalcommunities.org>
Subject: Open Meeting Law Violations

Dear Norwich Selectboard Members, Planning Commission Members and
Development Review Board Members,

This email is formal notice that Phil Dechert, the Planning Commission and
Development Review board have on numerous occasions violated the Open Meeting
Law cited below:

<http://vlct.org/assets/MAC/Open%20Meeting%20Law/Open%20Meeting%20Law%20Statute%20As%20Amended%202016.pdf>

The violations consist of failing to provide the public with agendas for the Planning Commission and Development Review Board at least 48 hours in advance of regular Planning Commission and Development Review Board Meetings and failure to distribute minutes of Planning Commission meetings within five calendar days after the meeting. Two recent examples which are by no means the only examples are the distribution of minutes of the Planning Commission meeting of November 10, 2016 and the Agenda for the meeting of December 8, 2016, both of which were distributed the day of the the meeting on December 8. Being ³ too busy² is no excuse for Mr. Dechert¹'s flouting of the law which he knows quite well. In addition, in Mr. Dechert¹'s minutes for the Planning Commission of 12/8/16 he "acknowledged the problem and the corrective measures being taken."² Unfortunately he has not corrected the problem. As the Clerk for the Development Review Board, Mr. Dechert continues to flout the law by issuing an Agenda for the DRB for a meeting on 12/15/16 less than 48 hours in advance.

1 V.S.A. § 314. Penalty and enforcement requires that the Planning Commission and the Development Review Board and its Clerk, Phil Dechert, respond within 10 calendar days as provided in the Statute. Failure to respond and to cure the violations can subject all those who have been put on notice to a \$500 fine and being guilty of a misdemeanor. Moreover should legal action be necessary those responsible for the violations will be responsible for legal costs as per the statute. I look forward to a timely response as required by the Statute from Phil Dechert, the Planning Commission and the Development Review Board. It will be much appreciated if Phil Dechert transmits this official notice to all Planning Commission and Development Review Board members and if Town Manager Dave Ormiston transmits this email to the Selectboard so that this notice becomes a part of the permanent record of each body.

Stuart L. Richards

13b

Herb Durfee

From: Nancy Cressman <ncressman1@gmail.com>
Sent: Friday, October 13, 2017 2:50 PM
To: David Ormiston
Subject: Union Village Road Safety

Dear Norwich Select Board,

I live on Union Village Road and on Tuesday, October 10 a ten-wheel Home Depot delivery truck carrying wood pellets, went off the road just in front of my house and could not bring its outer wheels back on to the road and after about 30 feet flipped and went down an embankment. Please look at the photos:
<https://dailyuv.com/feed/926179>

When the driver came up the embankment he kept saying "I couldn't get the wheels back on the road." I don't know how fast he was going, but obviously too fast. He is very fortunate that his concussion and aches should aright themselves soon.

We experience a lot of big trucks traveling on Union Village Road and often they are driving too fast. The road does not have good sight lines and is narrow with very limited shoulder options all the way along it. These three factors combine to make it dangerous when over sized vehicles are moving too fast, or even just trying to share a the road with them is hard.

I'd like to petition that the town make Union Village Road a no pass road for through trucks. If a truck is delivering to someone who lives on the road, that would be fine, but trucks going to Thetford and Strafford and beyond should be required to use Route 5 and Route 132. Seems like the town would benefit from not having the heavy trucks wearing down the road. And, most importantly the road would be safer. Let's try to prevent an even more serious accident.

Looking forward to hearing from you.
Nancy Cressman

Miranda Bergmeier

From: claudette brochu <cbrochu30@gmail.com>
Sent: Monday, October 16, 2017 9:49 PM
To: norwich@lists.vitalcommunities.org; Miranda Bergmeier
Subject: Fire District sidewalks

About a month ago, there was a Selectboard (SB) agenda item proposing that the town assume responsibility for the upkeep of the Fire District (FD) sidewalks. A memo was included in the SB packet reviewing the condition of the sidewalks and location of FD and town-owned sidewalks. However, IMHO, the memo did little to address some of the other pertinent information and questions related to the sidewalks.

A Listserve post by Chris Katucki raised some serious issues. I would like to add my 2 cents:

1. The Selectboard memo does not state clearly WHY the town should assume responsibility for the FD sidewalks except to say that the sidewalks should be maintained to a specific level.

If one of the responsibilities of the FD is to maintain the sidewalks, why have they not been doing so? Why hasn't the town (or has it) addressed the issue with the FD? Can the town mandate that the FD maintain the sidewalks? There is nothing on the FD website or the town website related to this.

2. What is the financial status of the FD? Can they afford to maintain the sidewalks? Why haven't they done so? If the FD does not have the funds, why not? Do we have comparables from other towns? What are the residents of the FD paying compared to other towns?

3. The issue of the town having money in a designated fund assigned for sidewalk upkeep has absolutely nothing to do with the FD sidewalks. The town has planned ahead. It does not seem as though the FD has done the same. The town already does the winter maintenance on the walks and pays the FD for hydrant rental. Those of us outside of town do not reap the benefit of a hydrant and subsequent reduction on property insurance.

4. The argument could be made that the sidewalks are there for the benefit of all in town. Well, so is the dump yet only the people using the dump (excuse me, transfer station) pay for its use even though the site is considered town infrastructure. So, if there is some serious justification for why the FD is not maintaining the sidewalks, let's make a deal. AFTER the FD brings the sidewalks up to a specific standard, have every household in town pay the equivalent price of a dump sticker (so everyone in town has a sticker, can be picked up at dump of town clerk) and the town can assume responsibility for the FD sidewalks. Keep the sidewalk appropriation at its current level of funding. If the math doesn't work out (eg. added revenue from dump stickers does not equal or exceed the added appropriation), reject the proposal.

Before you start to say "Well, how will be split the revenue from dump to sidewalk" take a step back. This is a proposal. Certainly the details can be worked out.

The bottom line for me is "Why hasn't the FD maintained the sidewalks?" Every other decision should be based on the answer to this question.

Clauette Brochu